

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A MARRIAGE LICENSE IS A PUBLIC
5 RECORD THAT MAY BE RELEASED TO THE PUBLIC WITHOUT RESTRICTION; AMENDING SECTIONS
6 40-1-107 AND 50-15-122, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 **Section 1.** Section 40-1-107, MCA, is amended to read:

11 **"40-1-107. Form of application, license, marriage certificate, and consent.** (1) The director of the
12 department of public health and human services shall prescribe the form for an application for a marriage
13 license, which must include the following information:

14 (a) name, sex, address, [social security number,] and date and place of birth of each party to the
15 proposed marriage;

16 (b) if either party was previously married, the party's name, and the date, place, and court in
17 which the marriage was dissolved or declared invalid or the date and place of death of the former spouse;

18 (c) name and address of the parents or guardian of each party;

19 (d) whether the parties are related to each other and, if so, their relationship; and

20 (e) the name and date of birth of any child of whom both parties are parents born prior to the
21 making of the application, unless their parental rights and the parent and child relationship with respect
22 to the child have been terminated.

23 (2) The director of the department of public health and human services shall prescribe the forms
24 for the marriage license, the marriage certificate, and the consent to marriage.

25 [(3) The license, certificate, or consent may not contain the social security number, and the
26 department shall keep the number from this source confidential, except that the department may use the
27 number in administering Title IV-D of the Social Security Act.]

28 (4) The information contained in the marriage license is subject to disclosure as provided in
29 50-15-122(5). (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

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1 **Section 2.** Section 50-15-122, MCA, is amended to read:

2 **"50-15-122. Disclosure of information from vital records or vital reports -- rules.** (1) It is the policy
3 of the state to protect the integrity of vital records and vital reports, to ensure their proper use, and to
4 ensure the efficient and proper administration of the system of vital statistics. In furtherance of the policy,
5 ~~it is unlawful for any a person to~~ may not permit inspection of or ~~to~~ disclose information contained in vital
6 records or in vital reports or ~~to~~ copy or issue a copy of all or a part of a record or report unless authorized
7 by this chapter, by administrative rule, or by order of a court of competent jurisdiction. Rules adopted
8 under this chapter must provide for adequate standards of security and confidentiality of vital records.

9 (2) The execution of a research agreement that protects the confidentiality of the information
10 provided to a researcher in response to a written request is required for disclosure of information that may
11 identify a person or institution named in a vital record or report. This agreement must be made in
12 compliance with this chapter or rules adopted to implement this chapter. Each agreement must prohibit
13 the release by the researcher of any information that might identify a person or institution, other than
14 releases that may be provided for in the agreement.

15 (3) This section does not prohibit the release of information or data that does not identify a person
16 or institution named in a vital record or report.

17 (4) A challenge to a decision of a custodian of vital records to refuse disclosing information from
18 records, as prescribed by this section and rules issued to implement this section, must be made before the
19 department in the case of a county clerk and recorder and to a district court in the case of the department.
20 A challenge before the department must be in the form of a contested case pursuant to the Montana
21 Administrative Procedure Act. An appeal of the department's decision to district court must be made by
22 filing an original action pursuant to the Montana Rules of Civil Procedure.

23 (5) (a) Immediately upon the filing of a record with the department, the fact that a birth, or death,
24 or dissolution of marriage has occurred or a record of marriage or dissolution of marriage may be released
25 to the public without restriction. Notwithstanding the restrictions provided in 50-15-121, complete birth
26 records may be released to the public 30 years after the date of birth. The department shall adopt rules
27 that provide for the continued safekeeping of the records.

28 (b) Because it has historically been made available to the public, an individual does not have a
29 reasonable expectation of privacy with regard to the information contained in a marriage license. A person
30 may inspect or receive a copy of a marriage license issued in this state.

1 (6) The department may provide the national center for health statistics or a successor agency
2 with copies of records, reports, or data from the system of vital statistics that are required for national
3 statistics. The department shall enter into an agreement with the center, indicating the scope of disclosure
4 of information, as required by this chapter or rules implementing this chapter, concerning the use of
5 records, reports, or data for statistical or research purposes. The agreement must set forth the financial
6 support to be provided by the center for the collection, processing, and transmission of the records,
7 reports, or data. Upon written request of the center, the department may approve, by amendment to the
8 agreement, additional statistical or research uses of the records, reports, or data supplied under the
9 agreement.

10 (7) Federal, state, and local governmental agencies may, subject to this chapter and rules
11 implementing this chapter, upon request, be furnished copies of records or data from the system of vital
12 statistics if the copies or data is used solely in the conduct of the agency's official duties. The department
13 shall, upon request by a licensed adoption agency, provide a birth certificate and related records for
14 purposes of adoption, termination of parental rights, custody actions, paternity actions, child support
15 actions, social security eligibility determinations, or Indian tribal enrollment determinations.

16 (8) Subject to this chapter and rules implementing this chapter, the department may, by
17 agreement, transmit copies of records and other reports required to be compiled by this chapter to offices
18 of vital statistics outside this state when the records or reports concern residents of those jurisdictions or
19 persons born in those jurisdictions. The agreement must specify the statistical and administrative purposes
20 for which the records may be used, and the agreement must provide instructions concerning proper
21 retention, confidentiality requirements, and disposition of the copies. Copies received by the department
22 from offices of vital statistics in other states must be handled as provided for in this subsection."

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24 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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